

STATE OF NEVADA  
BOARD OF HEARING AID SPECIALISTS

MINUTES

AUGUST 27, 2005

1. Call to Order and Roll Call

President Vander Wall called the meeting to order at 10:15 A.M. at the Enterprise Library, Conference Room, Las Vegas, Nevada. Roll call showed the following individuals present:

Board Members:

Dr. Kathleen VanderWall, President  
Tracy Sandborn, Secretary  
Rick Vaughn, Member  
Denise Segreti-Perlmutter, Member

Staff:

Christina Harper, Board Administrator  
George Campbell, Deputy Attorney General

Public:

Irma L. Gloria, Attorney with Woods, Erickson, Whitaker and Miles  
Janina Chambers  
Don Chambers  
Mary Chambers  
Mr. Chambers  
Donald Chambers  
Charles Adams  
Pam Lesniowski  
Susan Lloyd  
Mark Baraz

President Vander Wall determined that a quorum was present.

2. Approval of Minutes

A. June 11, 2005 Board Meeting Minutes

Member Vaughn requested that his comments under "Public Comments" be recorded as follows: Member Vaughn stated that information regarding the Board is readily available and if individuals call the Board's phone number the message indicates the next meeting date and the next exam date. Finding information regarding Board meetings is readily available.

Chair Vander Wall stated that the amended June 11, 2005 minutes will be placed on the next meeting agenda for approval.

3. Review Policy Procedure Manual

There being no additions, amendments, or objections, President VanderWall stated that the Policy Manual remains as submitted. Mrs. Harper stated that this is a continuing agenda item for any changes or additions that the Board may want to make to the Policy Procedure Manual.

Chair Vander Wall stated that she is in the process of reviewing the Code of Ethics/State Statute Exam and will report at the next Board meeting.

4. Review, Discuss and Possible Action on the Settlement Agreement for the Following Applications: a. Michael Tobin; b. Sylvia Tobin; c. Donald Stephens

George Campbell presented the Settlement Agreement and provided a history that lead to the proposed Settlement Agreement. This Agreement is the first step to identify and resolve the issues and the parties do not admit to any wrongdoing.

Mr. Campbell recommends that the Board accept the proposed Settlement Agreement. Upon questioning, Mr. Campbell stated that the applicants are not required to appear at this stage of the settlement. It was noted that Irma Gloria was the attorney representing the applicants. Mr. Campbell stated that the Board can approve the agreement, disapprove the agreement, or propose changes to the agreement.

Mr. Campbell reviewed the specific terms of the proposed Settlement Agreement. Mr. Michael Tobin will withdraw his application and the Board will take no action on his application. Mrs. Sylvia Tobin will be permitted to take the licensure exam or withdraw her application with the Board taking no action. Upon questioning, Ms. Gloria stated that the pending lawsuit is to compel the Board to take action on Sylvia Tobin's application. Mr. Donald Stephens' application to be approved by the Board and he be permitted to take the licensure exam. Mr. Campbell stated that there is no admission of guilt or violation on the first agreement; this allows the parties involved to reach an agreement.

Ms. Gloria requested, on behalf of their clients (Mike Tobin, Sylvia Tobin and Donald Stephens), that Member Vaughn recluse himself regarding this matter. Chair Vander Wall stated that she understands that if Member Vaughn recluses himself from the vote on the Settlement Agreement, he still maintains the right to participate in the discussion.

Member Sandborn stated that she understands the process and purpose of the settlement agreement, but suggested that Sylvia Tobin withdraw her application and the Board take no action on her application. Member Sandborn expressed concern regarding Donald Stephens in that he agrees that some of his activities may have created the appearance of fitting and dispensing hearing aids, but is not admitting any wrongdoing.

Mr. Campbell stated that the statement that no one is admitting any wrongdoing is the first step to any settlement agreement. Mr. Campbell states that appearances are

different than facts. Mr. Campbell stated that he felt a need to have some acknowledgement from Mr. Stephens that his conduct was raising questions/concerns.

Following discussion, Member Sandborn proposed that Mike Tobin and Sylvia Tobin withdraw their applications and Donald Stephens be permitted to take the licensure exam.

Chair Vander Wall suggested that verbiage be added to the agreement that Sylvia Tobin not have the option to take the licensure exam. Chair Vander Wall questioned Ms. Gloria, if the Board would still have the option to question Sylvia Tobin regarding her own ethical situation in terms of her employees to any current or future issues, if Mrs. Tobin reapplies. Ms. Gloria stated that her impression is that the Board could still question Sylvia Tobin, but would like to double check with her client. Chair Vander Wall stated that she agrees for Mike Tobin and Sylvia Tobin to withdraw their applications and permit Donald Stephens to take the exam, as long as Mrs. Tobin is willing to answer questions as to the ethical situation in terms of her employees to any current or future issues if she reapplies. Ms. Gloria proposed that if her clients agree to the amended proposal proposed by the Board, then the agreement could be signed by the Board President.

The Board Members continued to express concern regarding the wording that Donald Stephens does not admit any wrongdoing.

Chair Vander Wall would also like wording added that Donald Stephens agrees to follow all rules, laws, and regulations. Ms. Gloria agreed to add this wording. Chair Vander Wall informed Ms. Gloria that Donald Stephens needs to provide a current copy or proof of his Florida Hearing Aid Specialist license. Mr. Stephens had provided a letter which indicated that he was going to provide a current copy of his Florida license to the Board. Mr. Stephens had provided a copy of his Florida license current as of 2003.

Member Sandborn moved to approve the amended Settlement Agreement to include Mrs. Sylvia Tobin withdraw her application and remove the option to allow Sylvia Tobin to take the exam, amended by President Vander Wall to include wording that Donald Stephens agrees to follow all the rules, laws, and regulations, seconded by Member Segreti-Perlmutter. President Vander Wall stated that if all of the proposed changes are made and agreed upon that she, as Chair, would be in agreement to sign the Settlement Agreement. The motion passed unanimously with Chair Vander Wall, Member Sandborn and Member Segreti-Perlmutter voting in agreement for the amended Settlement Agreement. Member Vaughn recused himself from the vote on the Settlement Agreement.

A break was granted at 11:25 A.M.  
The meeting reconvened at 11:40 A.M.

6. Report of Secretary/Treasurer

A. Financial Report

Mrs. Harper handed out the financial report as of June 30, 2005. Mrs. Harper indicated that the balance does include the 2005-2006 license renewals. It was indicated that the Board has a balance of \$22,443.59 in checking and \$21,013.89 in CD's. Mrs. Harper stated that the accountant has also provided a Balance Sheet as of June 30, 2005 that needs to be submitted to the Legislative Auditor and the Chief of the Budget Division of the Department of Administration on or before December 1, 2005. Once approved by the Board, Chair Vander Wall will sign the original Balance Sheet to be submitted.

Member Sandborn expressed concern regarding the balance ending July 31, 2005 as the balance for the operating expenses is very low. The Board discussed the need to approach the Legislature during the next session to request an increase in the fees, to include the application fee, initial license fee, exam fee, and renewal fee. The Board has requested this type of amended statute in the past and has been unsuccessful. Chair Vander Wall suggested that the Board submit better documentation of why the increases in fees are necessary.

President Vander Wall moved to approve the Balance Sheet and Financial Report through July 31, 2005, seconded by Member Sandborn. The motion passed unanimously.

7. Report of Board Administrator

A. Application Profiles and Board Acceptance of those Applications

The Board reviewed the following licensure applications.

Following a review of Steven Lehrohl's application, Member Vaughn stated that the official transcripts from two universities (Webber State and Portland, Oregon) and verification of his Utah license are missing and need to be received and reviewed prior to the application being approved. Mr. Lehrohl's application will be reviewed at the next meeting.

Following a review of Carol Erickson's application, Member Vaughn stated that all documents have been received and are in order. The Board approved Carol Erickson's application and to take the licensure exam.

Following a review of Valerie McGuire's application, Member Vaughn stated that all documents have been received and are in order. The Board approved Valerie McGuire's application and to take the licensure exam.

5. Report of Board Chair

A. Schedule Next License Examination

B. Schedule Next Board Meeting

Chair Vander Wall stated that due to the financial situation of the Board, the next licensure exam will be held in Reno.

The Board scheduled the next licensure exam for October 15, 2005 to begin at 10:00 A.M. at 343 Elm Street, Suite #204, Reno, Nevada. Applicants taking the exam will be notified and will be requested to meet at the back north door of the office building.

The Board scheduled the following meeting dates:

November 19, 2005	Reno – Southwest Library
February 11 or 18, 2006	Reno – Southwest Library
May 2006	to be determined at a later date
August 2006	to be determined at a later date

7. B. Licensee Examination Results from July 2005

Mrs. Harper reviewed the exam results from July 9, 2005:

- Kathleen J. Lee – passed the practical, the State Statutes and Ethics exams, and the IHIS written exam. Ms. Lee has submitted the initial license fee and has received her license.
- Abbie Stevenson – passed the practical, the State Statutes and Ethics exams, and the IHIS written exam. Ms. Stevenson has submitted the initial license fee and has received her license.
- Courtney M. Smith – passed the practical, the State Statutes and Ethics exams, and passed the IHIS written exam. Ms. Smith has submitted her initial license fee and has received her license.
- Patricia Cunningham-Wong – passed the practical, the State Statute and Ethics exams, and passed the IHIS written exam. Ms. Wong has submitted her initial license fee and has received her license.
- Angela Moughis – passed the practical and State Statutes and Ethics exams, but failed one portion of the IHIS written exam. Ms. Moughis will be allowed to take the written portion of the exam in October.

C. Legislative Update

Mrs. Harper informed the Board of AB 395 was a bill added to Education Chapter 394, prohibiting the use or attempted use of a false or misleading degree or honorary degree granted by a private entity or public post secondary educational institution and the use or attempted use or a degree or honorary degree granted by such an entity or institution in a false or misleading manner, providing a penalty; and providing other matters properly relating thereto.

Following discussion, the Board agreed to place legislative bill draft requests on the next agenda for discussion and possible action to include AB 395 as a legislative item – to request the Legislature to include the Hearing Aid Specialists in AB 395. The following items will be discussed as possible legislative bill draft requests: 1) increase in fees; 2) change in Board membership to remove the requirement for a medical doctor with another category; and 3) to be included in AB 395.

D. Review of Quarterly Reports for Apprentices

The Board reviewed the quarterly reports for apprentices.

Member Sandborn expressed concern and questioned Mr. Kenneth Lujan's apprentice report, as the report indicates that Mr. Lujan works for two weeks at a time. The Board was reminded that Mr. Van Hoose at the last meeting stated that he is in Las Vegas for two weeks out of the month and only supervises and sponsors Mr. Lujan for those two weeks. Mr. Van Hoose stated at the last meeting that Mr. Lujan works in Arizona and New Mexico for the other two weeks and working on his BCHIS certification.

Chair Vander Wall moved to accept the apprentice quarterly reports as submitted, seconded by Member Sandborn. The motion passed unanimously.

8. Discussion Regarding the Board Holding Informal Hearings with Regards to Complaints Filed Against Hearing Aid Specialists

Mrs. Harper questioned the Board if they would like to hold informal hearing instead of the complaint profile as a first review of a complaint. Following discussion, the Board agreed to keep the complaint profile (with no names listed) as the first review of a complaint and then if the Board has questions and the issue is not resolved, then the Board has the option of asking the client and the Hearing Aid Specialist to the next meeting for an informal hearing.

9. Complaint Report for Investigator on Complaints

Susan Lloyd stated that she has reviewed the complaints and provided a verbal report on each file. The Board took the following action:

Dr. Lloyd stated that most of the complaints did not have a response or complete response of client records provided from the Hearing Aid Specialist.

#1199202 - Member Vaughn moved to dismiss case #1199202 – as the client cancelled the sale of the hearing aids six days after the order prior to taking possession of hearing aids. The Specialist refunded the client the cost of the hearing aids minus \$250 per hearing aid, the purchase agreement allowed for a \$250 nonrefundable fee. This agreement was signed in 1999 prior to the law being amended with regard to the amount allowed to be charged for a casting fee, seconded by Member Sandborn. The motion passed unanimously.

#00-08-009 – Member Vaughn moved to dismiss case #00-08-009 – as the client was refunded the money for the hearing aids minus the \$250 nonrefundable fee, seconded by Member Sandborn. The motion passed unanimously.

#01-01-010 – The Board agreed to send a strongly worded letter to the Hearing Aid Specialist requesting that the Specialist provide, to the Board, the consultant's notes to include when the hearing aids were lost and when the replacement hearing aids were ordered, a copy of the invoice for the replacement of the hearing aids, and that a copy of this letter to be sent to the client. There is a question if the hearing aids were replaced. The patient was fitted and received the hearing aids, wore the hearing aids and the patient states that the Specialist would extend the trial period every time the client went in, there is no evidence to that. The Specialist states that the client reported the hearing aids lost, replacements were ordered and then the client tried to return the replacements. Ms. Lloyd stated that the manufacture could be contacted to determine the serial number of the original hearing aids and the replacement hearing aids. The Board stated that if a hearing aid is lost and a replacement is ordered there should be a paper trail.

The Board discussed amending regulations, at a future meeting, to have the Hearing Aid Specialist and the client re-sign and date at the bottom of the Bill of Sale when replacement hearing aids were ordered, received, fitted as the client receives an additional 30-day trial period.

#02-01-050 – The Board agreed to send a strongly worded letter to the Hearing Aid Specialist requesting the consultant's notes to include when the hearing aids were lost and when the replacement hearing aids were ordered, a copy of the invoice for the replacement of the hearing aids, and that a copy of this letter to be sent to the client.

#01-02-015 – The Board agreed to send a strongly worded letter to the Hearing Aid Specialist requesting the consultant's notes to include when the hearing aids were lost and when the replacement hearing aids were ordered, a copy of the invoice for the replacement of the hearing aids, and that a copy of this letter to be sent to the client.

Mr. Campbell stated that the Board could make the new procedural requirements, adopted in 2004, apply to an open investigation even if that open investigation is two to three years old.

The Board stated that for any future complaints in which a Hearing Aid Specialist does not respond to the request for records by the Board, the Board will rule in favor of the client, as a default provision for not providing information to enable the Board to perform the investigation on the complaint.

#00-08-003 – The Board directed staff to send a letter to the Hearing Aid Specialist requesting a copy of the client's entire file and detailing information was requested by the Board and never received. The letter will also state that if the requested information is not received and Board may and can take further disciplinary action for the failure to respond and find in favor of the client. The Hearing Aid Specialist will have 30 days in which to provide the requested information. Dr. Lloyd stated that the client cancelled

the sale of the hearing aids after three days and there was no indication that the patient was refunded, but there is documentation that the hearing aids were returned. A copy of the letter to the Hearing Aid Specialist is also to be sent to the client.

#0300075 - The Board directed staff to send a letter to the Hearing Aid Specialist requesting a copy of the client's entire file and detailing information was requested by the Board and never received. The letter will also state that if the requested information is not received and Board may and can take further disciplinary action for the failure to respond and find in favor of the client. The Hearing Aid Specialist will have 30 days in which to provide the requested information. Dr. Lloyd stated that the client received the hearing aids and then had problems with the hearing aids. The client then went to a physician who revoked the medical clearance. There was no copy of the original medical clearance. The Board stated that if the medical waiver is not received from the Hearing Aid Specialist they will find in favor of the client and send this complaint to the FDA for further investigation. A copy of the letter to the Hearing Aid Specialist is to be sent to the client.

Mr. Campbell suggested instructing staff to send a letter detailing what was requested, that the information was not received and that if the information is not received the Board may take further disciplinary action on the failure to respond.

#01-03-017 - The Board directed staff to send a letter to the Hearing Aid Specialist requesting a copy of the client's entire file, specifically requesting a medical clearance/waiver, and detailing information was requested by the Board and never received. The letter will also state that if the requested information is not received the Board may take further disciplinary action for failure to respond and find in favor of the client. The Hearing Aid Specialist will have 30 days in which to provide the requested information. Dr. Lloyd stated that the client did receive the money back for the hearing aids except for \$250 per hearing aid. The complaint stated that the client needed hearing aids because her hearing had changed. There was no medical clearance provided by the Hearing Aid Specialist and the Specialist did not provide any medical records. The sales contract and the audiogram were signed by two different individuals and there was no bone conduction, no speech recognition (incomplete audiogram). The client would like to have the \$250 back.

#01-02-013 – Dr. Lloyd stated that there was no official notarized Hearing Aid Specialist complaint form. The Board directed staff to send a letter dismissing the complaint, as the complaint was not submitted on the official Hearing Aid Specialist complaint form and the form also needs to be notarized. The letter will also inform the client that if the client would like to proceed with the complaint then to submit the official notarized complaint form.

#01-01-009 – Dr. Lloyd stated that the consumer has been reimbursed in this case. The Board directed staff to close this file.

#01-09-035 – Dr. Lloyd stated that the complaint states that the client was sold new hearing aids every year. The audiogram that was submitted was incomplete. The daughter of the client stated that it was unethical to sell hearing aids to someone every



year to her mother. The Board directed staff to close this file as the Board has no jurisdiction in this matter. The Board agreed that the client has some responsibility to stop going to a particular Specialist if the client feels that there is some wrong doing and this client kept going to the same Specialist year after year from 1996 to 2001. The Board noted the behavior of the Specialist. The Board directed staff to send a letter to the client stating that the Board has reviewed the complaint and is aware of the situation and thank you for bringing this issue to the Board.

#01-01-002 – The Board directed staff to send a letter to the Hearing Aid Specialist indicating a failure to respond and requesting a copy of the client's entire file, specifically requesting a medical clearance/waiver, and detailing information was requested by the Board and never received.

#1000090 – The Board directed staff to send a letter to the Hearing Aid Specialist indicating a failure to respond and requesting a copy of the client's entire file, specifically requesting a medical clearance/waiver, and detailing information was requested by the Board and never received.

#0700199 – The Board directed staff to send a letter to the Hearing Aid Specialist indicating a failure to respond and requesting a copy of the client's entire file, specifically requesting a medical clearance/waiver, and detailing information was requested by the Board and never received.

#00-08-005 – The Board directed staff to send a letter to the Hearing Aid Specialist indicating a failure to respond and requesting a copy of the client's entire file, specifically requesting a medical clearance/waiver, and detailing information was requested by the Board and never received.

#01-01-007 – The Board directed staff to send a letter to the Hearing Aid Specialist indicating a failure to respond and requesting a copy of the client's entire file, specifically requesting a medical clearance/waiver, and detailing information was requested by the Board and never received.

#1099090 – The Board directed staff to send a letter to the Hearing Aid Specialist indicating a failure to respond and requesting a copy of the client's entire file, specifically requesting a medical clearance/waiver, and detailing information was requested by the Board and never received.

#01-01-006 - The Board directed staff to send a letter to the Hearing Aid Specialist indicating a failure to respond and requesting a copy of the client's entire file, specifically requesting a medical clearance/waiver, and detailing information was requested by the Board and never received.

It was discussed that the Hearing Aid Specialist will be given thirty (30) days in which to respond to the letter requesting information and these files will be reviewed by the Board at the next meeting. If the Hearing Aid Specialist does not respond to the letter requesting records, the Board will find in favor of the client for failure to respond.

#01-08-032 – This Hearing Aid Specialist has already been notified on March 2002 that records were not received. The Board directed staff to send a letter to the Hearing Aid Specialist indicating a failure to respond and requesting a copy of the client's entire file, specifically requesting a medical clearance/waiver, and detailing information was requested by the Board and never received. It was discussed that the client indicates he/she wants better hearing.

#### 10. Public Comment

Donald Chambers, spouse of Hearing Aid Specialist Nina Chambers, stated that Nina Chambers received a letter from the Board dated February 28, 2005 which stated that her license may be in jeopardy due to alleged incidents that occurred during her employment at David Groom Hearing and wanted to know if her license was still in jeopardy, as Ms. Chambers has been present at the past two meetings and has not been allowed to testify.

The Board advised that Nina Chambers' license is no longer in jeopardy. Chair Vander Wall stated that the Board had indicated previously that her license was no longer in jeopardy. The Board thanked Mrs. Chambers for making the effort to attend the previous two meetings and asked that Mrs. Chambers understand that the Board's hands were tied in terms of allowing Mrs. Chambers to testify due to certain legal circumstances.

Mrs. Harper indicated that the Board's web site is up and running and can be access at [www.hearingaidboard.nv.gov](http://www.hearingaidboard.nv.gov), Mrs. Harper requested that Board Members review the web site and contact her if there is anything that needs to be changed or added.

Upon questioning by Member Vaughn, Mrs. Harper informed the Board that John Tobin has withdrawn his sponsorship of Nichole Morbach. Ms. Morbach has been notified by letter and a phone call that she is not allowed to practice until she obtains a new sponsor.

#### 11. Adjournment of Meeting

President VanderWall adjourned the meeting at 1:38 P.M.